

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SHERRY M. DOWNING,

Plaintiff,

1:12-CV-1817-PA

TEMPORARY RESTRAINING ORDER

v.

BANK OF AMERICA N.A. and
QUALITY LOAN SERVICE
CORPORATION OF WASHINGTON,

Defendants.

SIMON, District Judge.

Plaintiff seeks an ex parte temporary restraining order to enjoin the foreclosure sale of her house. Plaintiff alleges the house is scheduled for a foreclosure sale on October 15, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Plaintiff alleges MERS is the named beneficiary on the deed of trust. Plaintiff also alleges

the loan involved was securitized and that there is no record of the transfer of the beneficial interest in the deed of trust to the "Depositor" of the trust.

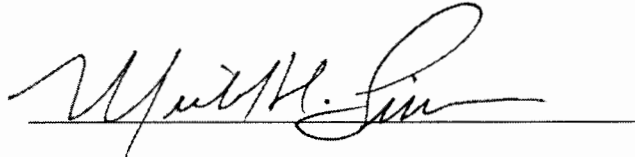
In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (internal citation omitted; James v. Recontrust Co., et al, 845 F.Supp.2d 1145, 1147 (D. Or. 2012)). Under the Oregon Trust Deed Act, all assignments of legal and equitable title, including any assignments of the beneficial interest in the deed of trust, must be recorded. James, 845 F.Supp.2d at 1168.

Because of the alleged imminent foreclosure sale, and because plaintiff's allegations demonstrate a sufficient likelihood of success on the merits of her claim that defendants did not comply with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#2). Defendants, and their officers and agents, and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale of the following property: 2676 Village Boulevard, White City, Oregon, from this day until Wednesday, October 24, 2012, at 5:00 p.m. Judge Owen M. Panner will hold a telephonic hearing on whether to issue a

preliminary injunction at 9:30 a.m. on October 24. The court will initiate the call.

IT IS SO ORDERED.

DATED this 10th day of October, 2012 at 11:20 o'clock AM.

A handwritten signature in black ink, appearing to read "Michael H. Simon", is written over a horizontal line.

Michael H. Simon
United States District Judge